

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

TINYBUILD LLC, a Washington limited
liability company,

Plaintiff,

v.

NIVAL INTERNATIONAL LIMITED, a
Cypriot corporation, and SERGEY
ORLOVSKIY,

Defendant.

NO. 19-CV-00805-TSZ

**DECLARATION OF DIANA SIRI
BREAUX IN SUPPORT OF
TINYBUILD LLC'S MOTION TO
AMEND COMPLAINT**

I, Diana Siri Breaux, declare:

1. I am counsel of record for the Plaintiff, tinyBuild, LLC, in the above-referenced matter, am over 18 years of age, competent to testify, and make this statement upon personal knowledge.

2. Attached as Exhibit 1 is an English translation of a document NIVAL produced in discovery with the designation NIVAL001557. This document was produced by NIVAL on January 22, 2020. The document was produced in Russian. tinyBuild subsequently had the document translated into English by a professional translator.

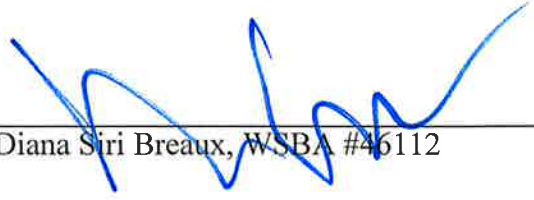
3. Attached as Exhibit 2 is an English translation of a document NIVAL produced in discovery with the designation NIVAL001569. This document was produced by NIVAL on

1 January 22, 2020. The document was produced in Russian. tinyBuild subsequently had the
2 document translated into English by a professional translator

3 4. Attached as Exhibit 3 is an English translation of a document NIVAL produced in
4 discovery with the designation NIVAL001560. This document was produced by NIVAL on
5 January 22, 2020. The document was produced in Russian. tinyBuild subsequently had the
6 document translated into English by a professional translator

7 DATED this 2nd day of March, 2020.

8
9 By


Diana Siri Breaux, WSBA #46112

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EXHIBIT 1

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

Do I understand correctly that when they ask for the sources I drag it out and wait for Ilya to prepare an addendum with terms that insure us against leaving the project without RevShare that they will refuse to sign now.

Sergey Orlovskiy, [31 дек. 2018 г., 3:13:45]:

Exactly

In which there will also be 25k for the transfer

alex bes, [31 дек. 2018 г., 3:14:24]:

:) that will be the least of their problems :)

Ilya Yakimov, [31 дек. 2018 г., 13:38:03]:

I will try to finish the addendum today.

I am writing it myself, that's why it takes so much time.

Ilya Yakimov, [31 дек. 2018 г., 17:22:19]:

Addendum is ready. If you have questions, write and call. I am still in the office.

alex bes, [31 дек. 2018 г., 17:26:49]:

I've read it, from what I understand on following potential risks everything is okay

Ilya Yakimov, [31 дек. 2018 г., 17:27:14]:

Sasha, check Exhibits A and B

We need some info from you there

It's a list of materials we are giving away and of things used from our own stocks.

alex bes, [31 дек. 2018 г., 17:28:33]:

Oh. I can make the list A after January 2nd. I need people in the office for that. As for the list B, if I get it right we are giving them rights on something from Blitzkrieg 3.

Ilya Yakimov, [31 дек. 2018 г., 17:28:48]:

Right

alex bes, [31 дек. 2018 г., 17:29:00]:

EXHIBIT 2

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

I saw it. works for me

alex bes, [Feb 21, 2019, 12:34:20]:

We can launch the servers where we can work on MA stuff by Tuesday

Is that okay?

Sergey Orlovskiy, [Feb 21, 2019, 12:34:32]:

OK

alex bes, [Feb 21, 2019, 12:35:36]:

And off topic - the girl from Japan has asked for a sh*tload of data, is that okay?

Should I honestly gather all our metrics or is this beyond regular business practices?

Sergey Orlovskiy, [Feb 21, 2019, 12:37:02]:

That's too f*cking much of course

Ilya Yakimov, [Feb 21, 2019, 13:19:41]:

Got an idea on the message to Alex. I've reread the contract carefully. We are not violating anything till April 1st, so it's better to tell them now that the development is not stopped, all their statements are baseless, so they should either wait till April 1st, or agree to the termination terms we offered back in January. And at the end of March send them the build we have, notify them of milestones delivered and invoice them. Moreover, we officially inform them that development has continued since that build, which means we're developing past beta version.

I assume they are fast-tracking the process now and pushing us because

according to clause 14d of the contract, after the beta we get all the royalties, and they can't just withdraw from the contract on a whim.

Ilya Yakimov, [Feb 26, 2019, 16:06:54]:

...OK

alex bes, [Feb 26, 2019, 16:09:33]:

well, it's no big deal. We worked on the termination and didn't lead it to anything.

If there is no termination... we do what we carry out our side of the contract

Sergey Orlovskiy, [Feb 26, 2019, 16:11:39]:

Everything is okay

EXHIBIT 3

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

In total, worst case scenario for us - we survived 2018 on their money and made ourselves a tech stack. For the money they paid, they got the sources with which they can theoretically finish the project with another team. We are potentially losing the profits if the project is successfully, and they'll potentially have to spend a lot more time and money to get it to launch.

Sergey Orlovskiy, [Jan 1, 2019, 16:35:39] alex bes, [Jan 1, 2019, 16:35:42]:

Exactly

If we'd had the sources there would not have been a second block

alex bes, [Jan 2, 2019, 1:17:34 (02.01.2019,1:18:30)]:

Status update.

I've talked to Ivan Loktionov - he's ready to come back. We need to discuss the timeframes and employment conditions with Ilya Yakimov. He'll be coding for d2 and consequently d3

alex bes, [Jan 2, 2019, 1:17:34 (02.01.2019,1:18:30)]:

...I talked to Mikhailov - told him about the options of coming back or staying with Pavel. But he would have to negotiate with Pavel on his own. He'll start working January 3rd.

talked to the art director - he's still interested in mobile projects. I need to have a call tomorrow with someone else (Pavel or Sergey) to discuss the terms before the flight to Cyprus (the ticket is for the 3rd)

Talked to Suslyaev - he's coming to work on the January 9 in Saint Petersburg. We're employing him again in February, he'll work on PW support and will be the lead designer on d2 and potentially d3

I need to find out how aware of all this stuff Pavel is and when he is coming to work to discuss all the conditions with him and plan out the allocations.

Also, Savvas contacted me. Was asking why his Jira account wasn't working. I told him that we are resetting all the infrastructure and that Ilya Yakimov is responsible for that in Cyprus and that he needs to go see Ilya first thing in the morning. Seems like Savvas is not aware of all the things with Tiny Build and it also looks like they are planning to toss him out as well. We'll see tomorrow.

we still have to talk